

CNR.NO.MHNB080008742021



R.C.S. No. 24/2021

Ramakant Chapdu Gangurde

Vs

Suresh Vadgya Kokani and Ors.,

ORDER PASSED BELOW EXH. 56

(DATED:09.07.2025)

1. Read the application and say. Heard both parties. The Plaintiff has filed this application for setting aside "evidence closed " order passed against them and seeking permission to lead their evidence.
2. It is contended by the plaintiff that, the suit was pending for further chief of the plaintiff for filling of certificate under section 65 B of Evidence Act.. But plaintiff not appeared in the court. therefore court passed order below Exh 1 and closed the evidence of the plaintiff. Now they are ready to lead their evidence. If court not set aside order and give opportunity to plaintiff he would suffer irreparable loss . Hence they prayed for to set aside order passed by the court on 19.03.2025.
3. The defendants resisted the application by filing his say on the back leaf of application. they stated that, the reason mentioned in application not proper. Hence prayed to reject the application with costs.
4. Perused the record and roznama. From it seems that, the plaintiff has filed present suit for injunction. The suit is old and filed in the year 2021. It is necessary to try the suit as early as possible as per order passed by Hon'ble Apex Court. Plaintiff filed his affidavit examination in chief at Exh.42 on 07.08. 2024.after that further chief for

some extend also recorded and suit kept for remaining chief of plaintiff. But, plaintiff failed. Therefore, my Ld. predecessor passed order below Exh. 1 and closed plaintiff evidence. Reason mentioned in application is not satisfactory but in the interest of justice and fair trial it is necessary to give opportunity to Plaintiff the lead their evidence. Also, it would be helpful to the court while deciding this suit on merits. In a suit both parties have to be gave an opportunity to produce their evidence and cross examine to the opposite side's witnesses. Also, in Cateena of judgments Hon'ble Apex Court taken view that trial court should be liberal while dealing with application for set aside. Consequently, the application is liable to be allowed. The delay caused by the defendant shall not be brushed aside. Therefore, while allowing the application, it needs to impose appropriate costs on the defendant. Resultantly, I pass the following order.

ORDER

1	Application Exh. 56 is allowed subject to costs of Rs.300/- (Rs. Three Hundred only)
2	Cost be paid to the defendants.
3	Plaintiff is directed to lead his evidence on next date. If he do not lead his evidence automatically his evidence will be closed.

(Dhananjay S. Deore)

Jt. Civil Judge Jr. Div., Navapur

Date :09.07.2025